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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,747	12/14/2007	Kiyoshi Yoshinari	Chugai-1(FP370US)	3023
7265	7590	12/22/2010	EXAMINER	
MICHAELSON & ASSOCIATES			MIGGINS, MICHAEL C	
P.O. BOX 8489				
RED BANK, NJ 07701-8489			ART UNIT	PAPER NUMBER
			1782	
			MAIL DATE	DELIVERY MODE
			12/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,747	Applicant(s) YOSHINARI ET AL.	
	Examiner Michael C. Miggins	Art Unit 1782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REJECTIONS WITHDRAWN

1. All of the 112, 102 and 103 rejections set forth in the non-final rejection of 7/7/10, pages 2-4, paragraphs 1-8 have been withdrawn.

REJECTIONS REPEATED

2. There are no rejections repeated.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Razavi et al. (US 2004/0096622) in view of Boosalis et al. (US 4362698).

Razavi discloses a container for dispensing liquid contained therein through an opening wherein said opening is closed with a composite sheet comprising a sheet having elastic property and another sheet having a slip property wherein the sheets are stacked, wherein the elastic sheet is made from silicone rubber, wherein the slip sheet is made from polytetrafluoroethylene, Teflon (paragraphs [0010], [0016] and [0018]).

Claim 6 which recites a dynamic and static friction is inherent in Razavi since teflon is disclosed as the slip layer.

Razavi fails to disclose slits in both the elastic layer and slip layer that are substantially aligned.

Boosalis discloses slits in both the elastic layer and slip layer that are substantially aligned (column 3, lines 21-58, column 4, lines 43-64, column 7, lines 31-62, column 8, lines 45-68) in closures for fluid sample cups for the purpose of preventing cross contamination of samples (column 1, lines 31-49).

Therefore it would have been obvious at the time applicant's invention was made to have provided slits in both the elastic layer and slip layer that are substantially aligned in Razavi in order to prevent cross contamination of samples as taught or suggested by Boosalis.

Razavi fails to specifically disclose claim 7 which recites a hardness and reflection coefficient. However, claim 7 is necessarily present in Razavi because Razavi discloses silicone rubber which is the same or substantially similar to applicant's recited material for the elastic layer in instant claim 4. Furthermore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided claim 7 in Razavi in order to improve the self sealing properties of Razavi.

ANSWERS TO APPLICANT'S ARGUMENTS

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5. Applicant's arguments of 10/7/10 have been carefully considered but are deemed unpersuasive. Applicant's arguments with regards to the 112 and 102 rejections are acknowledged but are moot since the rejections have been withdrawn.

Applicant has argued, in regards to the 103 rejections, that Razavi does not disclose the "slit" element of claim 1 as amended. Boosalis discloses cutting slits through the elastic layer and not through the rigid layer. The apertures cut through the rigid layer are much larger than the slits and, in fact, all of the slits in the elastic layer are contained within the area of the single aperture through the rigid layer. However, applicant's claims do not distinguish between the sizes of various slits/apertures, nor do applicant's claims recite that the slits/apertures between elastic and rigid layers are the same size thus the combined teachings of Razavi and Boosalis read on applicant's claims as written.

Applicant argues that Boosalis discloses no restoring force on the elastic layer to properly close the slit when a tip is withdrawn leading to evaporation of volatile components in the well after repeated use and the present invention provides that both sheets act in concert to allow a tip to be easily inserted and withdrawn from a container while ensuring complete closure even after many insertion/withdraw cycles. However, these limitations are not recited in the claims as currently written.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/
Primary Examiner, Art Unit 1782

MCM
December 20, 2010